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ABSTRACT

More than 20 states have adopted some form of regulation-relief legislation for their public schools. Two major issues confront the movement to deregulate the schools. The first is that there have been surprisingly few takers of regulation waivers; and second, whether, even if current deregulation efforts are successful, the end result is really the sought-after improved educational outcome. It appears that a major stumbling block to the practical implementation of state-level deregulation legislation is the dearth of suggested alternatives to the existing educational system. However, this may change as innovations become more widely available and establish credibility. (9 references) (MLF)

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"To sum it up, the governors are ready to do some old fashioned horse-trading. We'll regulate less if schools and school districts will produce better results" (National Governors' Association 1986). With these words Tennessee Governor Lamar Alexander set the tone four years ago for what now appears to be a major thrust by states to improve the quality of public education—deregulation. In so doing these states are reversing a trend that, in the words of at least one commentator, has resulted in public schools being "the most regulated enterprise in the United States" (Ohio Education 2000 Commission 1989).

What is meant by "deregulation" in the public school context?

Public schools are governed by an intricate network of rules, regulations, and policies emanating from federal, state, and local levels. Proponents of deregulation are not advocating that this network be done away with *in toto*. Rather, they are suggesting that some regulations may be operating to the detriment of effective schooling in some situations.

For example, most schools must meet detailed state mandates regarding number of days per school year, number of hours per day, textbooks to be used, and teacher certification requirements. Such regulations have been introduced to meet perceived needs at the time, but they may also "stifle the creativity and effectiveness of the individual teacher, administrator and school" (Ohio 1989). When regulations appear to stifle, rather than promote, innovative approaches, then it is time to reevaluate their function.

While the original deregulation impetus came from the federal level under the Reagan Administration, the focus of this discussion is on the more recent efforts by states to waive regulations for the purpose of improving educational outcomes. Whereas federal regulations pertain to federally funded programs emanating primarily from the civil rights legislation of the 1960s, state regulations, which govern the day-to-day operation of the schools, go to the very heart of public education in America. When a state decides to remove, even partially, its regulatory function over education, the potential for radical change at the local level is vastly increased.

How are states deregulating education?

To date more than twenty states have adopted some form of regulation-relief legislation (Olson 1990). The prevailing philosophy behind most of the legislation is that deregulation is to be offered as a reward to those districts that have proved, within the existing regulatory framework, that they can produce superior quality education.

For example, in South Carolina, under a law passed in June 1989, the top 10 percent of schools have been automatically released from a number of state regulations governing staffing, class scheduling, and class structure. Schools became eligible for autmatic waivers "if, during two of the previous three years, their students' gains on two sets of standardized tests place them in approximately the top quarter of schools with similar socioeconomic characteristics; if students in their remedial programs met minimum testing requirements; if they exhibited no recurring accreditation deficiencies; and if their test scores improved annually at above average rates" (Flax 1989).

Not all states have adopted this philosophy, however. For example, North Carolina, in contrast to its southern sister state, has opted for the incentive approach to deregulation. Under its School Improvement and Accountability Act, passed in August 1989, *all* districts choosing to participate will be given lump sums of state aid rather than amounts specifically earmarked for particular programs or resources. In addition, the State Board of Education may, upon request, "waive regulations concerning class size, teacher certification, assignment of teacher assistants, and use of state adopted textbooks" (Bradley 1989).

On the other hand, North Carolina will not honor all requests for waivers. Participating districts must submit to the state for approval a local school-improvement plan that specifies three- to five-year goals for student performance, as well as annual milestones the district will use to measure progress in meeting them. Thus, while all districts have equal opportunity to participate initially in a deregulation process, each district will be evaluated annually across a number of indicators, and only those meeting criterion on 75 percent of those indicators will be permitted to continue in the program.

What issues confront the deregulation movement?

Two major issues, one practical and one philosophical, confront the movement to deregulate the public schools. The practical issue is that, for all the legislative fanfare around the offering of regulation waivers to deserving schools and school districts, there have been surprisingly few takers. The reasons for

this are not entirely clear, but one observer (Olson 1990) has concluded that they fall into at least three categories.

First, many local administrators are just plain skeptical about how committed states will remain over the long haul to the deregulation movement. They are waiting to see whether this isn't just another temporary fad among academics.

Second, a state-driven deregulation movement ignores a powerful source of regulation at the local level not subject to state edict: the teacher bargaining agreement. A completely thorough deregulation movement must be able to persuade the local teacher union to rescind hard-won provisions in the contract if they stand in the way of improving educational outcomes.

The final, and perhaps most startling, impediment to deregulation is the sheer lack of imagination on the part of district personnel regarding potential alternatives to existing practices. For example, in San Diego, forty-eight schools are engaged in what they would like to think are qualitatively different ways of approaching public education. But, according to Hugh Boyle, president of the San Diego Teachers Association, "A lot of what is going on is not restructuring, it's modifying the way we do things" (Olson 1990). Simply increasing a district's flexibility may not be sufficient to promote innovation. States may also need to provide access to new ideas through workshops, onsite consulting, and the like.

On a philosophical level, the issue is whether, even if current deregulation efforts are successful, the end result is really the sought-after improved educational outcome. Since the majority of state deregulation programs are tying waivers to such outcome measures as student scores on standardized achievement tests, one may wonder with Susan Fuhrman (1989) whether such "narrow measures of student performance fail to capture the complexity of schooling and learning." For example, she adds, "They may direct school personnel to concentrate on factors that are not related to local learning goals and, in fact, deflect attention from such goals." While this issue is more thoroughly addressed in an earlier Digest (Bowers 1989), it deserves mention here as an example of the difficulties facing any educational improvement effort that ties incentives or rewards to the results of standardized testing.

What is the prognosis for the continued expansion of state-level deregulation ?

It appears that a major stumbling block to the practical implementation of state-level deregulation legislation is the dearth of suggested alternatives to the existing educational system. As Fuhrman points out, this "lack of vision" problem, while critical, may only be temporary. After all, deregulation is only one facet of a much larger, more all-encompassing school restructuring movement. Should this movement continue to build momentum, it ought to yield more concrete alternatives to the status quo. Thus, the current vacuum of ideas that may be behind the underwhelming response of districts to voluntary deregulation may soon reverse itself, as innovations become more widely available and establish credibility.

Certainly not all regulations are barriers to innovation. Indeed, many are in place to protect the basic health, safety, and human rights of students, as well as to ensure the smooth daily functioning of the educational enterprise. At the same time, if our nation's schools are to retain the flexibility necessary to respond to the rapidly changing world of knowledge, then they must be given a certain degree of freedom *from* regulation. Finding the appropriate balance between autonomy and regulation is a challenge that may never be fully met, but it is one that continually must be raised.

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